

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM
MAGISTRATE CRIMINAL MINUTES

DISTRICT COURT OF GUAM

JUN 21 2005

MARY L.M. MORAN
CLERK OF COURT

CASE NO. MG-05-00007

DATE: 06/21/2005

TIME: 9:06 a.m.

HON. JOAQUIN V.E. MANIBUSAN, JR., Magistrate Judge

Court Reporter: Wanda Miles

Hearing Electronically Recorded: 9:06:05 - 10:36:03

10:40:00 - 10:40:20; 10:55:54 - 12:00:23; 1:27:47 - 3:17:25

3:31:34 - 4:25:00; 4:35:09 - 4:36:14; 4:40:19 - 4:40:43

Law Clerk: Judith Hattori

Courtroom Deputy: Virginia T. Kilgore

CSO: B. Pereda

34
35

***** A P P E A R A N C E S *****

DEFT: HAROLD J. CRUZ

(X) PRESENT () CUSTODY (X) BOND () P.R.

ATTY: KIM SAVO

(X) PRESENT () RETAINED (X) FPD () CJA APPOINTED

DEFT: ERNEST Q. MUNA

(X) PRESENT () CUSTODY (X) BOND () P.R.

ATTY: MARK SMITH

(X) PRESENT () RETAINED () FPD (X) CJA APPOINTED

U.S. ATTORNEY: JOSEPH TOCK

AGENT: JUSTIN OLIVER, CO-COUNSEL

U.S. PROBATION:

U.S. MARSHAL:

INTERPRETER: _____ () SWORN LANGUAGE: _____
() PREVIOUSLY SWORN

DAY NO. 1 OF TRIAL

() JURY TRIAL

(X) COURT TRIAL

() JURY EMPANELED AND SWORN

(X) OPENING STATEMENT BY THE X Plaintiff X Defense (Kim Savo)

(X) WITNESSES SWORN AND EXAMINED (X) EXHIBITS MARKED AND ADMITTED

SEE ATTACHED EXHIBIT AND WITNESS LIST, AO FORM 187 (and 187A, when applicable)

() CLOSING ARGUMENT BY THE _____ Plaintiff _____ Defendant

(X) TRIAL CONTINUED TO: June 22, 2005 at 9:30 A.M. *

() JURY CHARGED BY COURT

() JURY DELIBERATE AT _____ () JURY RETURNS VERDICT AT: _____

() JURY VERDICT: _____

() JURY POLLED () POLLING WAIVED () JURY DISCHARGED

() COURT FINDINGS: _____

() OTHER MATTER(s): _____

UNITED STATES DISTRICT COURT

DISTRICT OF

GUAM

UNITED STATES OF AMERICA

EXHIBIT AND WITNESS LIST

V.

HAROLD J. CRUZ and ERNEST Q. MUNA

Case Number: MG-05-00007

| PRESIDING JUDGE JOAQUIN V.E. MANIBUSAN, JR. | | | | | | PLAINTIFF'S ATTORNEY JOSEPH TOCK / JUSTIN OLIVER | DEFENDANT'S ATTORNEY KIM SAVO / MARK SMITH |
|---|----------|----------|--------------|-----------------|---------------|---|--|
| HEARING DATE (S) JUNE 21, 2005 | | | | | | COURT REPORTER WANDA MILES | COURTROOM DEPUTY VIRGINIA T. KILGORE |
| JOINT NO. | PLTF NO. | DEF. NO. | DATE OFFERED | DATE IDENTIFIED | DATE ADMITTED | DESCRIPTION OF EXHIBITS* AND WITNESSES | |
| | | | | | | Governments Exhibits 1 through 32 admitted with the exception of Exhibits 28, 29 and 30 | |
| | | | | | | Mr. Tock calls Officer Richard M. Ragadio as a witness (9:22:49) | |
| | 1 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3 - Gov Property sign close-up | |
| | 2 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3 - w/Gov Property sign, Rt. 3 | |
| | 3 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3 - w/Gov Property Sign Rt. 3 | |
| | 4 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3-3a intersection- w/Gov Property sign | |
| | 5 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a-w/Gov Property sign and fence | |
| | 6 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a-w/Gov Property sign and fence | |
| | 7 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a-w/Gov Property sign and road bend | |
| | 28 | | | 6/21/05 | | Map of Northwest Field showing Route 3 and 3A | |
| | 7 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a-w/Gov Property sign and road bend | |
| | 8 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a - w/Det 5 sign | |
| | 9 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a - w/Gov Property sign on left side of road | |
| | 10 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign | |
| | 11 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/sign toward national wildlife refuge | |
| | 29 | | | 6/21/05 | | Map of Northwest Field showing Points | |
| | 12 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a-w/Property sign on road past wildlife refuge | |
| | 13 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge | |
| | 14 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/outcropping on left and sign holder by truck | |
| | 29 | | | 6/21/05 | | Map of Northwest Field showing Points | |
| | 14 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/outcropping on left and sign holder by truck | |
| | 13 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge | |
| | 18 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge Richard Ragadio standing in jungle | |
| | 16 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge Richard Ragadio standing in jungle | |
| | 17 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge Log Barrier | |
| | 21 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge Jimmy Camacho in jungle pointing under log barrier | |
| | 29 | | | 6/21/05 | | Map of Northwest Field showing Points | |
| | 28 | | | 6/21/05 | | Map of Northwest Field showing Route 3 and 3A | |
| | 29 | | | 6/21/05 | | Map of Northwest Field showing Points | |
| | 14 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/outcropping on left and sign holder by truck | |
| | | | | | | Witness identifies Defendant Ernest Q. Muna (10:02:48) | |
| | 23 | | 6/21/05 | 6/21/05 | 6/21/05 | Muna's Black flashlight | |
| | 22 | | 6/21/05 | 6/21/05 | 6/21/05 | Cruz's Blue flashlight (photograph) | |
| | 22a | | 6/21/00 | 6/21/05 | 6/21/05 | Cruz's Blue flashlight (Physical evidence) | |
| | | | | | | CX by Ms. Savo (10:13:29) | |

| PRESIDING JUDGE JOAQUIN V.E. MANIBUSAN, JR. | | | | | | PLAINTIFF'S ATTORNEY JOSEPH TOCK / JUSTIN OLIVER | DEFENDANT'S ATTORNEY KIM SAVO / MARK SMITH |
|---|----------|----------|--------------|-----------------|---------------|---|--|
| HEARING DATE (S) JUNE 21, 2005 | | | | | | COURT REPORTER WANDA MILES | COURTROOM DEPUTY VIRGINIA T. KILGORE |
| JOINT NO. | PLTF NO. | DEF. NO. | DATE OFFERED | DATE IDENTIFIED | DATE ADMITTED | DESCRIPTION OF EXHIBITS* AND WITNESSES | |
| | 29 | | | 6/21/05 | | Map of Northwest Field showing Points | |
| | 14 | | | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/outcropping on left and sign holder by truck | |
| | | | | | | CX by Mr. Smith (10:21:06) | |
| | 1 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3 - Gov Property sign close-up | |
| | 11 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/sign toward national wildlife refuge | |
| | 9 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a - w/Gov Property sign on left side of road | |
| | 11 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/sign toward national wildlife refuge | |
| | 9 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a - w/Gov Property sign on left side of road | |
| | 1 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3 - Gov Property sign close-up | |
| | 9 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a - w/Gov Property sign on left side of road | |
| | | | | | | Re-Dx by Mr. Tock (10:56:30) | |
| | 9 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a - w/Gov Property sign on left side of road | |
| | 14 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/outcropping on left and sign holder by truck | |
| | | | | | | Re-Cx by Ms. Savo (11:07:32) | |
| | 9 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a - w/Gov Property sign on left side of road | |
| | 29 | | | 6/21/05 | | Map of Northwest Field showing Points | |
| | 14 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/outcropping on left and sign holder by truck | |
| | | | | | | Re-Cx by Mr. Smith (11:10:39) | |
| | | | | | | Witness excused and subject to recall (11:12:12) | |
| | | | | | | Mr. Tock calls Officer Mark J.D. Aguon as a witness (11:12:27) | |
| | 29 | | | 6/21/05 | | Map of Northwest Field showing Points | |
| | 14 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/outcropping on left and sign holder by truck | |
| | 30 | | | 6/21/05 | | Map of Northwest Field showing Apprehension Locations | |
| | | | | | | CX by Ms. Savo (11:35:53) | |
| | 8 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Det 5 sign | |
| | 11 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/sign toward national wildlife refuge | |
| | 12 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign on road past wildlife refuge | |
| | | | | | | Cx by Mr. Smith (11:53:29) | |
| | 11 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/sign toward national wildlife refuge | |
| | | | | | | BREAK (12:00:23) | |
| | | | | | | Trial resumes (1:27:47) | |
| | | | | | | Re-Dx by Mr. Tock (Officer Mark J.D. Aguon) | |
| | 12 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign on road past wildlife refuge | |
| | 10 | | 6/21/05 | | 6/21/05 | Photograph Rt 3a- w/Gov Property sign | |
| | 16 | | 6/21/05 | | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge Richard Ragadio standing in jungle | |
| | 15 | | 6/21/05 | | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge Richard Ragadio standing at edge | |
| | 14 | | 6/21/05 | | 6/21/05 | Photograph Rt 3a- w/outcropping on left and sign holder by truck | |
| | 18 | | 6/21/05 | | 6/21/05 | Photograph Rt 3a- Gov Property sign past wildlife refuge Richard Ragadio standing in jungle | |
| | 11 | | 6/21/05 | | 6/21/05 | Photograph Rt 3a- w/sign | |
| | | | | | | Re-Cx by Ms. Savo (1:34:58) | |
| | | | | | | Re-Cx by Mr. Smith (1:36:29) | |
| | | | | | | Witness excused and subject to recall | |
| | | | | | | Mr. Tock calls Casey Ogden as a witness (1:38:28) | |
| | 28 | | | 6/21/05 | | Map of Northwest Field showing Route 3 and 3A | |
| | 29 | | | 6/21/05 | | Map of Northwest Field showing Points | |
| | 30 | | | 6/21/05 | | Map of Northwest Field showing Apprehension Locations | |
| | | | | | | Mr. Tock moves to admit Exhibits 28, 29 and 30. No objections. GRANTED. | |
| | | | | | | Cx by Ms. Savo (1:47:00) | |
| | 30 | | 6/21/05 | 6/21/05 | 6/21/05 | Map of Northwest Field showing Apprehension Locations | |
| | 29 | | 6/21/05 | 6/21/05 | 6/21/05 | Map of Northwest Field showing Points | |

| PRESIDING JUDGE JOAQUIN V.E. MANIBUSAN, JR. | | | | | | PLAINTIFF'S ATTORNEY JOSEPH TOCK / JUSTIN OLIVER | DEFENDANT'S ATTORNEY KIM SAVO / MARK SMITH |
|---|----------|----------|--------------|-----------------|---------------|---|--|
| HEARING DATE (S) JUNE 21, 2005 | | | | | | COURT REPORTER WANDA MILES | COURTROOM DEPUTY VIRGINIA T. KILGORE |
| JOINT NO. | PLTF NO. | DEF. NO. | DATE OFFERED | DATE IDENTIFIED | DATE ADMITTED | DESCRIPTION OF EXHIBITS* AND WITNESSES | |
| | | | | | | Witness excused (1:55:59) | |
| | | | | | | Mr. Tock called Officer Roger Watson as a witness (1:56:00) | |
| | 29 | | 6/21/05 | 6/21/05 | 6/21/05 | Map of Northwest Field showing Points | |
| | | | | | | Objection by Ms. Savo - hearsay | |
| | | | | | | Rebuttal Argument by Mr. Tock | |
| | | | | | | Objection Overruled | |
| | 24 | | 6/21/05 | 6/21/05 | 6/21/05 | Muna's 12 Gauge Shotgun - Handed to the witness (2:04:48) | |
| | 27 | | 6/21/05 | 6/21/05 | 6/21/05 | Shotgun shells - Handed to the witness | |
| | | | | | | End of DX (2:10:22) | |
| | | | | | | CX by Ms. Savo (2:10:28) | |
| | | | | | | CX by Mr. Smith (2:13:13) | |
| | | | | | | End of CX 2:22:56 | |
| | | | | | | Re-Dx by Mr. Tock (2:22:58) | |
| | | | | | | Re-Cx by Mr. Smith (2:27:39) | |
| | | | | | | Requested the Court to show witness rules and regulations re wildlife | |
| | | | | | | Objection by Mr. Tock | |
| | | | | | | Objection Overruled | |
| | | | | | | Side Bar (2:32:36) | |
| | | | | | | End Side Bar (2:35:50) | |
| | | | | | | End of Re-Cx (2:35:57) | |
| | | | | | | Witness Excused | |
| | | | | | | Mr. Oliver called Officer Jimmy B. Camacho as a witness (2:36:34) | |
| | 32 | | 6/21/05 | 6/21/05 | 6/21/05 | Picture of Deer Carcass (1) | |
| | 31 | | 6/21/05 | 6/21/05 | 6/21/05 | Picture of Deer Carcass (2) | |
| | 13 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge | |
| | 22a | | 6/21/05 | 6/21/05 | 6/21/05 | Cruz's Blue flashlight (physical evidence) | |
| | 22 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph of Blue flashlight | |
| | | | | | | End of DX (2:49:48) | |
| | | | | | | Cx by Ms. Savo (2:49:51) | |
| | 29 | | 6/21/05 | 6/21/05 | 6/21/05 | Map of Northwest Field showing Points | |
| | | | | | | Witness handed copy of the report written by him (3:01:42) | |
| | | | | | | End of Cx (3:06:00) | |
| | | | | | | Cx by Mr. Smith (3:06:12) | |
| | 29 | | 6/21/05 | 6/21/05 | 6/21/05 | Map of Northwest Field showing Points | |
| | 28 | | 6/21/05 | 6/21/05 | 6/21/05 | Map of Northwest Field showing Route 3 and 3A | |
| | | | | | | End of Cx 3:12:28 | |
| | | | | | | Re-Dx by Mr. Oliver (3:12:38) | |
| | 20 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge Jimmy Camacho standing in jungle pointing | |
| | 21 | | 6/21/05 | 6/21/05 | 6/21/05 | Photograph Rt 3a- w/Gov Property sign past wildlife refuge Jimmy Camacho in jungle pointing under log barrier | |
| | | | | | | End of Re-Dx (3:15:11) | |
| | | | | | | Re-Cx by Ms. Savo (3:15:13) | |
| | | | | | | End of Re-Cx (3:16:00) | |
| | | | | | | Break 3:17:25 | |
| | | | | | | Trial resumes (3:31:34) | |
| | | | | | | Government rested (3:31:49) | |
| | | | | | | Ms. Savo moves for a Rule 29 motion - Motion for a judgment of acquittal based on insufficient evidence | |
| | | | | | | Defendant Muna joins in the motion (3:32:33) | |
| | | | | | | Court DENIED the motion | |
| | | | | | | Mr. Smith - no opening statement | |
| | | | | | | Ms. Savo calls Harold Cruz as a witness (3:32:49) | |

